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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,131	12/15/2003	Christopher P. Viens	P 03-12	3607
27656	7590	01/08/2007		
MICHAEL J. WEINS 31 BANK STREET LEBANON, NH 03766			EXAMINER PLUMMER, ELIZABETH A	
			ART UNIT	PAPER NUMBER
			3635	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/736,131

Applicant(s)

VIENS, CHRISTOPHER P.

Examiner

Elizabeth A. Plummer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/02/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is a first Office action on the merits for application serial number 10/736,131 filed 12/15/2003. Claims 1-13 are pending.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.84 (h) (1) because Figures 1, 3, 5 and 9 require bracketing. When an exploded view is shown in a figure which is on the sheet as another figure, the exploded view should be placed in brackets. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 8-10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Tlemcani et al. (US Patent 6,615,544).

- a. Regarding claim 1, Tlemcani et al. discloses a ceiling hatch (10) comprising a frame (12) having an upper edge and a lower edge and passage bounded by a sidewall passing therebetween, the passage extending from the lower edge to the upper edge and having its minimum cross section at the lower edge (Figs. 1-3, 5-7), an insulating block (14) bounded by a top surface (18), bottom surface (16) and a side surface (20) which is configured such that the insulating block is positionable substantially within the passage and substantially fills the same (Figs. 1-3, 6, 8), a hinge (24) operably attached to the frame (12) and to the insulating block (14), providing pivotable action between the insulating block (14) and the frame (12) about a pivot axis, said hinge (24) being so positioned and the side surface (20) of the insulating block (14) and said passage through the frame being so configured as to allow said insulating block to be swung out of the passage on an interference free path (Figs. 1-3), and a means

(32, 13) for maintaining the bottom surface of the insulating block (14) in a horizontal plane when the insulating block (14) resides substantially within the passage (Figs. 6,7).

b. Regarding claim 8, the passage has a rectangular cross section (Figs. 1-3, 5-7) and is bound by a pair of parallel vertical sidewalls (20) spaced apart and terminating at a vertical back wall and at a sloped front wall (slope of ninety degrees), and the side surface of the insulating block is faceted (Figs. 1,3), or having a plurality of planar faces, such that when the insulating block resides substantially with the passage the side facets are each parallel to and in close proximity to one of the pair of parallel vertical sidewalls and the back facet is substantially parallel to and in close proximity to the vertical back wall, and the front facet being configured such that at least a portion thereof can be mated with the sloped front wall (Figs. 5-7), and the hinge (24) is aligned such that the pivot axis is parallel to the vertical back wall and to the back facet (Figs. 1-3).

c. Regarding claim 9, the ceiling hatch further comprises weatherstripping (34) positioned so as to form a seal between the frame (12) and the insulating block (14) when the insulating block resides substantially within the passage (Fig. 7; column 3, 44-46).

d. Regarding claim 10, the weatherstripping is positioned in close proximity to the upper edge of the frame (14) and the top surface of the insulating block (18) when the insulating block resides substantially within the passage (Fig. 7).

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- e. Regarding claim 13, a pull handle (40) is attached to the top surface of the insulating block (Fig. 1).

***Claim Rejections - 35 USC § 103***

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tlemcani et al. (US Patent 6,615,544) in view of Hackbarth et al. (US Patent 6,578,327).

- a. Regarding claims 2 and 3, Tlemcani et al. discloses a rim mounted to the edge of the frame and extending outwardly therefrom to provide a flange (Fig. 7).

Tlemcani et al. also discloses a second rim (13) that serves as a lip that maintains the bottom surface horizontal and supports the insulating block (Fig.

7). Tlemcani et al. does not disclose that the rim that extends outwardly is attached to the bottom edge of the frame. However, it is notoriously well known in the art that a rim can be attached to a lower edge of a frame instead of the upper edge. For example, Hackbarth et al. teaches a rim (18) mounted to a lower edge of a ceiling access frame and extending outwardly therefrom to provide a flange (column 3, lines 39-43; Figs. 1,2) in order to secure the frame to the ceiling joists. The rim (18) also includes a lip (46) in order to support the bottom surface of the insulating block (16) (Figs. 1,2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Tlemcani et al. to include the rim on the lower edge of the frame and extending outwardly therefrom to provide a flange, such as taught by Hackbarth et al., in order to simplify the means of production by having only one rim that extends both outwardly and inwardly and in order to provide frame that can be attached to the ceiling from below.

b. Regarding claim 4, the passage has a rectangular cross section (Figs. 1-3, 5-7) and is bound by a pair of parallel vertical sidewalls (20) spaced apart and terminating at a vertical back wall and at a sloped front wall (slope of ninety degrees), and the side surface of the insulating block is faceted (Figs. 1,3), or having a plurality of planar faces, such that when the insulating block resides substantially with the passage the side facets are each parallel to and in close proximity to one of the pair of parallel vertical sidewalls and the back facet is substantially parallel to and in close proximity to the vertical back wall, and the front facet being configured such that at least a portion thereof can be mated with the sloped front wall (Figs. 5-7), and the hinge (24) is aligned such that the pivot axis is parallel to the vertical back wall and to the back facet (Figs. 1-3).

c. Regarding claim 5, the ceiling hatch further comprises weatherstripping (34) positioned so as to form a seal between the frame (12) and the insulating block (14) when the insulating block resides substantially within the passage (Fig. 7; column 3, 44-46).

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d. Regarding claim 6, the weatherstripping is positioned in close proximity to the upper edge of the frame (14) and the top surface of the insulating block (18) when the insulating block resides substantially within the passage (Fig. 7).

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tlemcani et al. (US Patent 6,615,544) in view of Hackbarth et al. (US Patent 6,578,327) as applied to claim 6 above, and further in view of Kompelien (US Patent 6,701,676).

Regarding claim 7, Tlemcani et al. in view of Hackbarth et al. discloses the invention as claimed except for the weatherstripping being a folded strip of resilient material.

However, it is notoriously well known in the art that a weatherstripping gasket can be formed of a folded strip of resilient material. For example, Kompelien teaches gaskets (33,34) that comprise a folded one-piece flexible rubber or plastic band that engages a flange section (column 3, lines 21-28). It would have been obvious to one of ordinary skill in the art to modify Tlemcani et al. in view of Hackbarth et al. to include a continuous one-piece flexible rubber band folded entirely around the frame as a weatherstripping gasket in order to provide a stronger, continuous seal.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tlemcani et al. (US Patent 6,615,544) in view of Kompelien (US Patent 6,701,676).

Regarding claim 11, Tlemcani et al. discloses the invention as claimed except for the weatherstripping being a folded strip of resilient material. However, it is notoriously well known in the art that a weatherstripping gasket can be formed of a folded strip of resilient material. For example, Kompelien teaches gaskets (33,34) that comprise a folded one-piece flexible rubber or plastic band that engages a flange section (column



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3, lines 21-28). It would have been obvious to one of ordinary skill in the art to modify Tlemcani et al. to include a continuous one-piece flexible rubber band folded entirely around the frame as a weatherstripping gasket in order to provide a stronger, continuous seal.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tlemcani et al. (US Patent 6,615,544) in view of Muth et al. (US Patent 4,738,054). Regarding claim 12, Tlemcani et al. discloses the invention as claimed except for a block cap being attached to the top surface of the insulating block and extending therebeyond so as to engage the upper edge of the frame when the bottom surface of the insulating block is substantially horizontal. However, it is well known in the art that a block cap can be attached to the outer surface of an insulating block and extend therebeyond so as to engage the outer edge of a frame. For example, Muth et al. teaches a block cap (48) attached to the outer surface (46) of an insulating block and extending therebeyond so as to engage the upper edge of a frame (Figs. 1,2) in order to provide a better seal around the ceiling hatch. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tlemcani et al. to include a block cap attached to the outer, or top, surface of the insulating block and extending therebeyond so as to engage the outer, or upper, edge of the frame, such as taught by Muth et al., in order to enhance the insulating properties of the ceiling hatch.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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